

Grenada, Guadeloupe, Haiti, Jamaica, Marie-Galante, Martinique, Miquelon, Montserrat, Saba, Saint-Barthelemy, Saint Christopher, Saint Eustatius, Saint Kitts-Nevis, Saint Lucia, Saint Maarten, Saint Martin, Saint Pierre, Saint Vincent and Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and other British, French and Netherlands territory or possession bordering on the Caribbean Sea.

An alien who applies for admission under the provisions of this section may be admitted to the United States only for the remainder of the authorized period of temporary stay which he or she was granted upon arrival in the United States in accordance with the provisions of § 217.2(a) of this part. A Visa Waiver Pilot Program visitor who applies for admission under the provisions of this section is subject to exclusion from the United States pursuant to section 212 of the Act and this part. Departure from and readmission to the United States of an alien under this subsection does not relieve any obligations and responsibilities of the carrier which initially transported such alien to the United States for admission under the provisions of this part.

[53 FR 24901, June 30, 1988, as amended at 53 FR 50160, Dec. 13, 1988; 59 FR 51095, Oct. 7, 1994]

§ 217.4 Excludability and deportability.

(a) *Consent to apply for admission.* Aliens who have been deported from the United States require the consent of the Attorney General to apply for admission to the United States pursuant to section 212(a)(17) of the Act and may not be admitted to the United States under the provisions of this part notwithstanding the fact that the required consent of the Attorney General may have been secured. Such aliens must secure a visa in order to be admitted to the United States as non-immigrants.

(b) *Determinations of excludability and inadmissibility.* (1) An alien who applies for admission under the provisions of section 217 of the Act, who is determined by an immigration officer not to be eligible for admission under that section or to be excludable from the United States under one or more of the

grounds of excludability listed in section 212 of the Act (other than for lack of a visa), or who is in possession of and presents fraudulent or counterfeit travel documents, will be refused admission into the United States and removed. Such refusal and removal shall be made at the level of the port director or officer-in-charge, or an officer acting in that capacity, and shall be effected without referral of the alien to an immigration judge for further inquiry, examination, or hearing, except that an alien who presents himself or herself as an applicant for admission under section 217 of the Act, who applies for asylum in the United States must be referred to an immigration judge for further inquiry.

(2) The removal of an alien under this section may be deferred if the alien is paroled into the custody of a Federal, State, or local law enforcement agency for criminal prosecution or punishment. This section in no way diminishes the discretionary authority of the Attorney General enumerated in section 212(d) of the Act.

(c) *Determination of deportability.* An alien who has been admitted to the United States under the provisions of section 217 of the Act and of this part who is determined by an immigration officer to be deportable from the United States under one or more of the deportation grounds listed in section 241 of the Act shall be removed from the United States to his or her country of nationality or last residence. Such removal for deportation shall be determined by the district director who has jurisdiction over the place where the alien is found, and shall be effected without referral of the alien to an immigration judge for a determination of deportability, except that an alien admitted as a Visa Waiver Pilot Program visitor who applies for asylum in the United States must be referred to an immigration judge for a determination of deportability.

(d)(1) *Removal of excludable and deportable aliens who arrived by air or sea.* The carrier which transported to the United States an alien who is to be removed pursuant to this section will be notified immediately of the determination to remove such alien by means of Form I-259, Notice to Detain, Deport,

Remove, or Present Aliens. Removal from the United States under this section may be effected using the return portion of the round trip passage presented by the alien at the time of entry to the United States as required in §217.2(b)(1) of this part. Such removal shall be on the first available means of transportation to the alien's point of embarkation to the United States. Nothing in this part absolves the carrier of the responsibility to remove any excludable or deportable alien at carrier expense, as provided in §217.6 (b) of this part.

(2) *Removal of excludable and deportable aliens who arrived at land border ports of entry.* Removal under this section will be by the first available means of transportation deemed appropriate by the district director.

[53 FR 24901, June 30, 1988, as amended at 56 FR 32953, July 18, 1991]

§217.5 Designated countries.

(a)(1) *Visa Waiver Pilot Program countries.* United Kingdom (effective July 1, 1988); Japan (effective December 15, 1988); France and Switzerland (effective July 1, 1989); Germany and Sweden (effective July 15, 1989); Italy and the Netherlands (effective July 29, 1989); Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, San Marino, and Spain (effective October 1, 1991); Brunei (effective July 29, 1993); Argentina (effective July 8, 1996); and Australia (effective July 29, 1996) have been designated as Visa Waiver Pilot Program countries based on the criteria set forth at sections 217(a)(2)(A) and 217(c) of the Act.

(2) *Visa Waiver Pilot Program countries with Probationary Status.* Effective April 1, 1995, until September 30, 1998 or the expiration of the Visa Waiver Pilot Program, whichever comes first, Ireland has been designated as a Visa Waiver Pilot Program country with Probationary Status in accordance with section 217(g) of the Act.

(b) *Definitions.* For the purposes of this part the term *national of a Visa Waiver Pilot Program country* as used in section 217(a)(2) of the Act when applied to the United Kingdom refers only to British citizens who have the unrestricted right of permanent abode

in the United Kingdom (England, Scotland, Wales, Northern Ireland, Channel Islands, and the Isle of Man); it does not refer to British overseas citizens, British dependent territories citizens, or citizens of British Commonwealth countries.

[53 FR 24901, June 30, 1988, as amended at 56 FR 46716, Sept. 13, 1991; 58 FR 40581, July 29, 1993; 60 FR 15856, Mar. 28, 1995; 61 FR 35600, July 8, 1996; 61 FR 39273, July 29, 1996; 61 FR 41684, Aug. 9, 1996]

§217.6 Carrier agreements.

(a) *General.* The carrier agreements referred to in section 217(e) of the Act shall be made by the Commissioner on behalf of the Attorney General and shall be on Form I-775, Visa Waiver Pilot Program Agreement. The term "carrier" as used in this part refers to the owner, charterer, lessee or authorized agent of any commercial vessel or commercial aircraft engaged in transporting passengers to the United States from a foreign place.

(b) *Agreement provisions.* (1) To be authorized to transport an alien to the United States pursuant to section 217 of the Act and this part, a carrier must enter into an agreement on Form I-775 to transport as an applicant for admission under section 217 of the Act and this part, only an alien who:

(i) Is a national of and in possession of a valid passport issued by a country listed in §217.5 of this part;

(ii) Is in possession of a completed and signed Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form, prior to inspection;

(iii) Seeks admission into the United States for 90 days or less;

(iv) Is in possession of round trip, non-transferable passage that is valid for one year, issued by a carrier signatory on Form I-775, or by authorized agents who are subcontractors to such a carrier, and guaranteeing transportation from the United States;

(v) Agrees that the return portion of such passage may be used to effect removal from the United States based on a finding of excludability or deportability under §217.4 of this part;

(vi) Appears otherwise admissible.

(2) The carrier further agrees to:

(i) Submit to the Immigration and Naturalization Service the Form I-94W